

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI**

PRESTON HARLOW)	
)	Case No. _____
Plaintiff,)	
)	
vs.)	
)	PLAINTIFF DEMANDS TRIAL BY
BRAD JUDGE, in his Individual)	A JURY ON ALL CLAIMS
Capacity,)	
JACOB SITTON, in his Individual)	
Capacity,)	
DANIEL RUSSELL, in his)	
Individual Capacity,)	
NICHOLAS NEWBERRY, in his)	
Individual Capacity, AND)	
THE CITY OF DESLOGE, MO)	
)	
Defendants.)	

COMPLAINT

COMES NOW Plaintiff, Preston Harlow, for his Complaint against Defendants, Brad Judge, in his Individual Capacity, Jacob Sitton, in his Individual Capacity, Daniel Russell, in his Individual Capacity, Nicholas Newberry, in his Individual Capacity, and The City of Desloge, Missouri, and states:

JURY DEMAND

1. Plaintiff demands trial by a jury on all claims.

PARTIES

2. Plaintiff is a citizen of the State of Missouri and a resident of Park Hills, Missouri (St. Francois County).

3. Defendant, Brad Judge, is a resident of St. Francois County and a citizen of the State of Missouri. At all times relevant he was employed as a police officer by the City of Desloge, Missouri.

4. Defendant, Jacob Sitton, is a resident of St. Francois County and a citizen of the State of Missouri. At all times relevant he was employed as a police officer by the City of Desloge, Missouri.

5. Defendant, Daniel Russell, is a resident of St. Francois County and a citizen of the State of Missouri. At all times relevant he was employed as a police officer by the City of Desloge, Missouri.

6. Defendant, Nicholas Newberry, is a resident of St. Francois County and a citizen of the State of Missouri. On May 10, 2016, he was in training to become a police officer for the City of Desloge, Missouri. He is currently employed as a police officer by the City of Farmington, Missouri.

7. Defendant, The City of Desloge, Missouri, is a city and political subdivision of the State of Missouri.

8. This Complaint is brought against Defendants, Brad Judge, Jacob Sitton, Daniel Russell and Nicholas Newberry in their individual capacities.

VENUE AND JURISDICTION

9. This cause of action arises from the conduct of the Defendants who used excessive force while arresting Plaintiff on about May 10, 2016 in St. Francois County, Missouri.

10. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331 and 1343 § (a)(1) because the Complaint alleges violations of 42 U.S.C. § 1983, et. seq.

11. Venue is proper under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this Complaint occurred in St. Francois County, Missouri, which is located within the territorial jurisdiction of this Court.

12. At all times herein relevant, Defendants, Brad Judge, Jacob Sitton, Daniel Russell, Nicholas Newberry and The City of Desloge, Missouri, were acting under color of State law in that they were in the process of arresting the Plaintiff for alleged violations of Missouri State law.

SOVEREIGN IMMUNITY AND STATUTE OF LIMITATIONS

13. At all times relevant, Defendant, The City of Desloge, Missouri purchased and had in effect a policy of insurance to insure itself against the claims of the type asserted against it in this Complaint, including claims for civil rights violations under 42 U.S.C. § 1983 and related claims, which constitutes a waiver of any defense based on sovereign immunity.

14. The applicable statute of limitations is the Missouri statute of limitations for personal injury, five years from the date of events described herein, which occurred on about May 10, 2016, as provided in Wilson vs. Garcia, 471 U.S. 261, 279 (1985). The Missouri statute for personal injury is five years, RSMo. § 516.120(4).

COUNT I

**(AGAINST DEFENDANTS, BRAD JUDGE, JACOB SITTON, DANIEL RUSSELL
AND NICHOLAS NEWBERRY, FOR USE OF EXCESSIVE FORCE DURING
AN ARREST IN VIOLATION OF 42 U.S.C. § 1983 AND THE FOURTH
AMENDMENT TO THE UNITED STATES CONSTITUTION)**

15. Plaintiff realleges and incorporates herein by reference ¶¶ 1-14.

16. On about May 10, 2016 Plaintiff was driving a motor vehicle when he dropped off a passenger at the Desloge Municipal Courthouse, in Desloge, Missouri. Brandon Bishop remained as a passenger in the motor vehicle.

17. After leaving the Desloge Courthouse, Plaintiff drove by the Desloge Police Department where several police officers were standing outside. One of the police officers flashed the lights of his police car, indicating the Plaintiff should pull over. A second police officer pulled out his pistol.

18. Plaintiff panicked and drove off the side of the road and around the police officers.

19. Several police officers in several police cars then pursued Plaintiff, who drove approximately twenty miles with the police cars in pursuit. During this trip, Plaintiff drove into St. Genevieve County, and then back into St. Francois County. As the chase continued, additional police cars joined the pursuit.

20. Eventually Plaintiff drove onto Highway K near the Bonne Terre prison, and from there on to River's Bend North, and from there on to a gravel roadway at the very end of River's Bend North. Eventually Plaintiff drove off the gravel road into the grass, near Big River.

21. Plaintiff then fled his motor vehicle while Brandon Bishop remained in the vehicle.

22. Plaintiff was pursued by about ten to twelve police officers, on foot.

23. Less than one hundred feet from his vehicle, Plaintiff was tackled by several police officers and handcuffed.

24. After Plaintiff was tackled and handcuffed, he was tazed by Officer Brad Judge or Jacob Sitton or Daniel Russell, and struck, with fists, and kicked, while he was down on the ground, by Officers Brad Judge, Jacob Sitton and Daniel Russell, and by trainee, Nicholas Newberry, while six to eight other officers watched.

25. Officer Michael Ryan, a Deputy Sheriff with the St. Francois County Sheriff's Office stated that Plaintiff needed to go to the hospital. Plaintiff was not provided with any medical treatment and was not taken to the hospital.

26. The audio recordings of the arrest provide, at the twenty-eight-minute mark, that the arrest, tackling and handcuffing began. Six minutes later on the audio, one of the police officers stated: "We beat the fuck out of him."

27. Police officers present at the time of the arrest include the four individual Defendants from the City of Desloge, officers from Leadington, Missouri, Bonne Terre, Missouri, St. Genevieve, Missouri Sheriff's office and Officer Michael Ryan from the St. Francois County Sheriff's Office.

28. During the beating, Plaintiff repeatedly pleaded with the individual Defendants, and other police officers who were present, to stop beating him, but they continued to strike him with their fists and to kick him.

29. Defendants, Brad Judge, Jacob Sitton, Nicholas Newberry and Daniel Russell, used excessive force in violation of the Fourth Amendment to the Constitution of the United States, and in violation of 28 U.S.C. § 1983, et seq. by striking Plaintiff with their fists and kicking him and tazing him after he had been tackled and subdued and was under the control of the ten to twelve police officers who surrounded.

30. Defendants, Brad Judge, Jacob Sitton, Nicholas Newberry and Daniel Russell, also failed to intervene to prevent the other police officers from using excessive force by striking, kicking and tazing the Plaintiff.

31. At all times herein relevant, Defendants, Brad Judge, Jacob Sitton, Nicholas Newberry and Daniel Russell, were acting pursuant to a conspiracy to deprive Plaintiff of his civil rights in violation of 42 U.S.C. § 1983 et. seq.

32. Defendants, Brad Judge, Jacob Sitton, Nicholas Newberry and Daniel Russell, did not have probable cause to strike Plaintiff with their fists, to kick him and to taze him, after he had been tackled and was under their control.

33. As a direct and proximate result of the violation of Plaintiff's rights under the Fourth Amendment to the Constitution of the United States and under 42 U.S.C. § 1983 et seq. by Defendants, Brad Judge, Jacob Sitton,

Nicholas Newberry and Daniel Russell, Plaintiff sustained the following injuries and damages:

- (a) Fractures of the bones surrounding his eyes;
- (b) A fractured skull;
- (c) Aggravation of a pre-existing condition in one of his kidneys;
- (d) Injuries to Plaintiff's nervous system, bones, ligaments, tendons

and muscles;

- (e) Headaches;
- (f) Burns, contusions and wounds from the tazing;
- (g) Bruises and contusions to his face, chest, arms and legs;
- (h) Plaintiff's glasses were broken at a cost of \$100.00;
- (i) Emotional and mental distress;
- (j) Extreme pain;
- (k) Extreme mental distress, fear, humiliation and shock;
- (l) Future pain and suffering;
- (m) Medical expenses in a sum in excess of \$1,000.00;
- (n) Future medical expenses in a sum in excess of \$30,000.00;
- (o) Total damages in a sum in excess of \$300,000.00.

34. Plaintiff has incurred, and will incur, attorney's fees in a sum in excess of \$50,000.00 in prosecuting this case.

35. The conduct of Defendants, Brad Judge, Jacob Sitton, Nicholas Newberry and Daniel Russell, and each of them, was willful, wanton, malicious, outrageous and with complete reckless indifference to, or conscious disregard

for, the rights of the Plaintiffs, warranting an award of punitive damages in a sum of \$200,000.00 against Brad Judge, \$200,000.00 against Jacob Sitton, \$200,000.00 against Nicholas Newberry and \$200,000.00 against Daniel Russell.

COUNT II

**(AGAINST DEFENDANT, THE CITY OF DESLOGE, MISSOURI,
FOR FAILURE TO TRAIN, AND TO STAFF
APPROPRIATELY TRAINED PERSONNEL)**

36. Plaintiff realleges and incorporates herein by reference ¶¶ 1-35, as fully set forth above.

37. Defendant, The City of Desloge, Missouri, at all times relevant had a duty to train its police officers to refrain from the use of excessive force while arresting people, and to refrain from striking and tazing a person after that person was subdued and/or handcuffed.

38. The City of Desloge, Missouri failed to staff its police department with properly trained police officers, and failed to train police officers Brad Judge, Jacob Sitton and Daniel Russell, and failed to train police trainee, Nicholas Newberry, to refrain from using excessive force and to refrain from striking and tazing people after they are arrested, subdued and/or handcuffed. All in violation of 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution.

39. As a direct and proximate result of said violations of 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution, Plaintiff sustained the following damages and injuries:

- (a) Fractures of the bones surrounding his eyes;
- (b) A fractured skull;
- (c) Aggravation of a pre-existing condition in one of his kidneys;
- (d) Injuries to Plaintiff's nervous system, bones, ligaments, tendons and muscles;

- (e) Headaches;
- (f) Burns, contusions and wounds from the tazing;
- (g) Bruises and contusions to his face, chest, arms and legs;
- (h) Plaintiff's glasses were broken at a cost of \$100.00;
- (i) Emotional and mental distress;
- (j) Extreme pain;
- (k) Extreme mental distress, fear, humiliation and shock;
- (l) Future pain and suffering;
- (m) Medical expenses in a sum in excess of \$1,000.00;
- (n) Future medical expenses in a sum in excess of \$30,000.00;
- (o) Total damages in a sum in excess of \$300,000.00.

40. Plaintiff has incurred and will incur attorney's fees in excess of \$50,000.00 in prosecuting this action, which Plaintiff is entitled to recover from Defendant, The City of Desloge, Missouri, pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

Plaintiff requests the following relief:

(a) An award for damages against Defendants, Brad Judge, Jacob Sitton, Nicholas Newberry and Daniel Russell, jointly and severally, in a sum in excess of \$300,000.00;

(b) An award for attorney's fees against Defendants, Brad Judge, Jacob Sitton, Nicholas Newberry, Daniel Russell and the City of Desloge, Missouri, jointly and severally, in a sum in excess of \$50,000.00;

(c) An award of \$200,000.00 for punitive damages against Defendant, Brad Judge;

(d) An award of \$200,000.00 for punitive damages against Defendant, Jacob Sitton;

(e) An award of \$200,000.00 for punitive damages against Defendant, Nicholas Newberry;

(f) An award of \$200,000.00 for punitive damages against Defendant, Daniel Russell;

(g) An award for Court costs in favor of Plaintiff and against Defendants, Brad Judge, Jacob Sitton, Nicholas Newberry, Daniel Russell, and The City of Desloge, Missouri, jointly and severally;

(h) For such other and further relief as the Court deems just and proper.

/s/ David M. Duree

David M. Duree, MBE 21003

David M. Duree & Associates, P.C.

312 South Lincoln Avenue

O'Fallon, IL 62269

Tel: 618-628-0186 Fax: 618-628-0259

Email: law@dmduree.net

Attorney for Plaintiff, Preston Harlow